

Appl. No. 09/940,273
Sup Resp. Dated August 2, 2005
Supplemental Reply to Office Action of January 13, 2005

REMARKS

The following remarks are submitted to supplement the response dated July 13, 2005 to the Office Action mailed January 13, 2005. No claim amendments have been made in this Supplemental Response. Therefore, claims 1-219 are pending, claims 1-52 and 137-219 are withdrawn from consideration, and claims 53-136 are under consideration.

In the Response dated July 13, 2005, Applicants indicated that one of ordinary skill in the art would not identify an electrode, lead, or lead system residing at least in part within a patient's vasculature or at least in part within a patient's heart as a "subcutaneous" electrode, lead, or lead system. In support of this statement, Applicants submit the attached declaration of cardiovascular electrophysiologist, Dr. Paul Johnson Wang. The Examiner's attention is directed to paragraphs 7 and 8 of the declaration, where Dr. Wang states that, "[i]n the context of cardioversion defibrillation treatment of a patient, an electrode, lead, or lead system that resides at least in part within a patient's vasculature or at least in part within a patient's heart is identified as a transvenous electrode," and that he "would not identify an electrode, lead, or lead system residing at least in part within a patient's vasculature or at least in part within a patient's heart as a 'subcutaneous' electrode" (emphasis added). In view of the Declaration by Dr. Wang regarding how one of ordinary skill in the art would interpret "transvenous" and "subcutaneous", Applicants submit that the device with transvenous electrodes of Hauser et al. does not anticipate the instant claims, which recite subcutaneous electrodes. Therefore, Hauser et al. do not teach or suggest the invention of independent claims 53 and 95.

For the reasons set forth above, it is believed that independent claims 53 and 95, and the claims depending therefrom, are now in condition for allowance. Withdrawal of the rejections is respectfully requested.

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Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Gust H. Bardy et al.

By their Attorney,

Date: August 2, 2005



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Attachment: Declaration of Paul Johnson Wang, M.D.